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7 **Attorneys for Intervenor Defendant WebBank**

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 KYLE SAWYER, individually and on
behalf of all others similarly situated,

12 Plaintiff,

13 vs.

14 BILL ME LATER, INC., EBAY INC.,
15 PAYPAL, INC., and DOES 1-100,

16 Defendants.
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) Case No. CV 10-4461 SJO (JCGx)

) **DECLARATION OF SEAN A.**
) **COMMONS IN SUPPORT OF**
) **WEBBANK'S MOTION TO**
) **DISMISS UNDER RULE 12(b)(6)**

) Date: October 24, 2011
) Time: 10:00 a.m.
) Dept: Courtroom 1
) Judge: Hon. S. James Otero

DECLARATION OF SEAN A. COMMONS

I, Sean A. Commons, declare as follows:

1. I am an attorney licensed to practice law in the state of California and before this Court, and am a partner at the law firm of Sidley Austin LLP, counsel for Defendant WebBank. I have personal knowledge of the facts set forth herein, except as to those matters stated on information and belief, which I believe to be true.

2. On August 15, 2011 and September 5, 2011, Mark Haddad and I met and conferred telephonically with Jeff D. Friedman, plaintiff's counsel, concerning the grounds for this motion in compliance with Local Rule 7-3. Plaintiff's counsel stated that he intended to oppose the motion.

3. Attached are true and correct copies of decisions issued by California district courts dismissing CLRA claims relating to extensions of credit:

Exhibit A: *Wilcox v. EMC Mortgage Corp.*, Case No. 8:10-cv-01923-DOC(JCGx) (C.D. Cal. July 25, 2011);

Exhibit B: *Becker v. Wells Fargo Bank, N.A.*, No. 2:10-cv-02799 LKK KJN PS (E.D. Cal. March 22, 2011);

Exhibit C: *Oatway v. Option One Mortgage Corp.*, Case No. 2:10-cv-08188-DMG(JCx) (C.D. Cal. March 2, 2011);

Exhibit D: *Hughes v. Wells Fargo Bank, N.A.*, Case 2:10-cv-00239-JHN-MAN, (C.D. Cal. April 26, 2010); and

Exhibit E: *Sheppard v. Capital One Bank*, CV 06-7535 GAF (FFMx), (C.D. Cal. July 2, 2007).

4. Defendants Bill Me Later, Inc., eBay Inc., and PayPal, Inc. support WebBank's motion.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on September 26, 2011 at Los Angeles, California.

/s/ Sean A. Commons
Sean A. Commons